693 Phil. 629

THIRD DIVISION

[G.R. No. 195243, August 29, 2012]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RAUL BERIBER Y FUENTES @ JERRY FUENTES Y IGNACIO @ GERRY BERIBER @ BONG @ PROMULGATED: RAUL FUENTES, APPELLANT.

D E C I S I O N

PERALTA, J.:

Before us is an appeal from the Decision[1] dated July 9, 2010 of the Court of Appeals in CA-G.R. CR-H.C. No. 01623, which affirmed with modification the Judgment[2] dated July 7, 2005 of the Regional Trial Court (RTC), Branch 32, San Pablo City, finding appellant Raul Beriber y Fuentes @Jerry Fuentes y Ignacio@ Gerry Beriber@ Bong@ Raul Fuentes, guilty of the crime of Robbery with Homicide.

On March 22, 2001, a Second Amended Information[3] was filed before the RTC of San Pablo City charging appellant of Robbery with Homicide.[4]

The accusatory portion of the Information reads:

> That on or about October 3, 2000, in the City of San Pablo, Republic of the Philippines and within the jurisdiction of this Honorable Court, the accused above-named, with intent to gain, did then and there willfully, unlawfully, and feloniously enter the premises of SPOUSES HENRY and MA. LOURDES VERGARA, located at Brgy. San Cristobal, this city, and once inside and finding an opportune time, did then and there take, steal and carry away cash money amounting to P2,000.00, Philippine Currency, belonging to said Spouses Henry and Ma. Lourdes Vergara, by means of violence against or intimidation of persons and by reason of or on the occasion of said robbery, said accused attack[ed] and stab[bed] to death his immediate employer Ma. Lourdes Vergara with a bladed weapon with which the accused was then conveniently provided, thereby inflicting wounds upon the person of said Ma. Lourdes Vergara which caused her immediate death.
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> CONTRARY TO LAW.[5]

When arraigned on April 17, 2001, appellant, with the assistance of a counsel *de oficio*, entered a plea of not guilty.[6]

Trial on the merits thereafter ensued.

The evidence for the prosecution is aptly summarized by the Solicitor General in the

Appellee's Brief as follows:

The prosecution presented six (6) witnesses, as well as documentary evidence to prove its case.

The first witness for the prosecution was Dr. Lucy Andal Celino (Celino), the physician who examined the remains of the victim, Lourdes Vergara. Celino is the Health Officer of San Pablo City. She testified that she conducted a necropsy of the victim on October 3, 2000 at 4:15 p.m., and that she prepared a Necropsy Report which states that the victim died of shock and hemorrhage secondary to multiple stab wounds all over her body, some of which damaged her heart, lungs, and liver. Celino also stated that the location of stab wounds, abrasions and lacerations on the victim's body indicated that the latter struggled against her killer. The physician added that the perpetrator used two kinds of instruments in inflicting wounds on the victim: a sharp-pointed instrument and a pointed rounded instrument.

On cross-examination, Celino confirmed that the wounds sustained by the victim were inflicted using two different pointed instruments.

The prosecution also presented police officer Armando Demejes (Demejes), who testified that while he was on duty on October 3, 2000, he went to the house of Henry Vergara (Henry) in Barangay San Cristobal, San Pablo City to investigate a stabbing incident which occurred thereat. When Demejes arrived at the scene of the crime, Vergara informed him that [his wife], Lourdes, was stabbed to death. Demejes entered the house and saw a cadaver lying on a bamboo bed. He also looked around the house and saw that the place was in disarray. In the sala, about five to six meters away from the corpse, was an open drawer containing coins, and on the floor near the said drawer were more coins. Another drawer was pulled out from its original location and left on a couch. Demejes likewise found a blue tote bag on top of the center of the table and a passbook on top of the bed. He also saw that the door leading to the stairs was open. Demejes prepared a sketch of the crime scene to document what he saw during his investigation.

Thereafter, the prosecution presented Neville Bomiel (Bomiel), a resident of Barangay San Cristobal, San Pablo City. Bomiel testified that he had known the appellant for less than a month prior to October 3, 2000. He knew that the appellant was working for the Vergaras and resided at the latter's rice mill. Bomiel recalled that while he was standing in front of his house in the morning of October 3, 2000, at around 10:00 a.m., he saw the appellant leave the house of the Vergaras and walk towards the direction of the school. When appellant passed by Bomiel's house, he asked appellant where the latter was going. Appellant replied that he was on his way to Batangas for medical treatment. Bomiel noticed that appellant was wearing a yellow collared t-shirt, blue denims, and shoes. Later, he saw appellant return to the house of the Vergaras and enter the place. Afterwards, appellant left the house and passed by Bomiel's residence a second time. Bomiel again greeted the appellant and asked

him why he (appellant) had not yet left for Batangas. Appellant replied that he was still waiting for Henry. Appellant again proceeded to the direction of the school. Subsequently, Bomiel saw the appellant return to the house of the Vergaras a third time. That was the last time Bomiel saw him. Bomiel observed that on that day, appellant looked restless. ("*balisa at hindi mapakali.*")

The fourth witness for the prosecution, Rolando Aquino (Aquino), likewise a resident of Barangay San Cristobal, San Pablo City, testified that he had known appellant for less than a month on October 3, 2000. He knew the appellant was hired by the Vergaras as a helper in their rice mill. In the morning of October 3, 2000, Aquino was able to talk to the appellant at the house of a certain Lola Rosy, the victim's mother. Appellant told Aquino that he was going to Batangas that day for medical treatment. Thereafter, appellant, then wearing short pants and a t-shirt with cut-off sleeves, left the house of Lola Rosy to go [to] the rice mill. At around 8:30 a.m., Aquino again saw appellant at Lola Rosy's house, but ppellant was already wearing a mint green-colored shirt and khaki pants. Aquino asked appellant why he had not yet left, but the latter did not answer and appeared restless. Later that morning, at around 11:30 a.m., Aquino learned that Lourdes had been killed. He rushed to the house of the Vergaras and saw the victim lying on a bamboo bed, drenched in blood. Aquino then noticed that the appellant's personal belongings which were kept by the appellant underneath the bamboo bed were no longer there. He further testified that he did not see appellant return to San Cristobal after October 3, 2000.

Henry Vergara also testified before the trial court. He said that he and the victim hired appellant as a helper in their rice mill in September 2000. Appellant slept in the house of Henry's mother-in-law, Rosy, but kept his personal belongings in their house (the Vergaras house), specifically under the bamboo bed where Lourdes' corpse was discovered on October 3, 2000 at past 11:00 a.m.

At around 5:30 in the morning of October 3, 2000, appellant asked Henry for permission to go to Batangas. Henry asked appellant to fetch a certain Junjun to be his replacement as Henry's helper in their store in Dolores, Quezon that day. Henry left their house in San Cristobal at 6:00 a.m. to tend their store in Quezon and stayed in the store until 11:00 a.m. before heading back home. When he arrived at their house in San Cristobal, he noticed that the door was slightly open. He called for Lourdes, but nobody answered. He immediately entered their house and saw that the door of their rice mill was closed. This caused him to suspect that something was wrong. He then noticed that coins were scattered on the floor. He proceeded to the kitchen and saw Lourdes lying on the bamboo bed, lifeless and bloodied in the chest and stomach areas.

Henry thereafter ran to the house of his brother-in-law, Wanito Avanzado (Avanzado), who also resided in San Cristobal. Henry told Avanzado that Lourdes was already dead. Avanzado then ran to the house of the Vergaras.

> Henry recalled that before he left for their store in Quezon that day, he left appellant, his wife and their children in their house. He also remembered that cash amounting to Two Thousand Pesos (P2,000.00) was left inside the drawer in their rice mill. However, when he looked for the money after he discovered that his wife was killed, he could no longer find it.
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> Henry also testified that he did not see the appellant in their house when he went home from Quezon and that appellant's personal effects were no longer under the bamboo bed where appellant used to keep them. He did not see appellant anymore after he left their house on October 3, 2000.
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> Lastly, the prosecution presented as witness Avanzado, the brother of the victim. Avanzado testified that at around 11:00 a.m. on October 3, 2000, he saw his brother-in-law, Henry, running towards his (Avanzado's) house and shouting "Si Aloy", the victim's nickname. He ran to the house of the Vergaras and saw his sister's bloodied body on the bamboo bed. Avanzado tried to lift her body, but her neck was already stiff. After he was sure that Lourdes was indeed dead, he called up the police and requested them to investigate the incident. When the police arrived, they took pictures of the crime scene and conducted an investigation.
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> Avanzado further stated that he knew that the appellant was a helper of the Vergaras. He said that he was told by several residents of San Cristobal that they saw appellant leaving the scene of the crime with a bag.
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> He also narrated that as Barangay Chairman of San Cristobal, he coordinated with the police for the apprehension of the appellant. Avanzado went with some police officers to Talisay, Batangas to search for appellant in the house of his uncle, but appellant was not there. Later, Avanzado received information that appellant was apprehended in Capiz, but was released by police authorities because the latter were worried that they would be charged with illegal detention. Avanzado then sought the assistance of the staff of *Kabalikat*, a program aired by the ABS-CBN Broadcasting Company. Appellant was subsequently apprehended and brought back to San Pablo City to face the charge against him.[7]

Except for Dr. Celino, the defense waived its right to cross-examine the prosecution witnesses. Appellant's counsel further waived the presentation of evidence.[8] Both parties failed to file their respective memoranda despite being ordered to do so; thus, the RTC resolved the case on the basis of the evidence presented by the prosecution.

On October 22, 2001, the RTC rendered its Decision,[9] the dispositive portion of which reads:

> WHEREFORE, IN VIEW OF THE FOREGOING CONSIDERATIONS, the Court finds accused RAUL BERIBER y FUENTES @ JERRY FUENTES y IGNACIO @ GERRY BERIBER @ "Bong", @ "Raul Fuentes" guilty beyond reasonable

doubt of the crime of Robbery with Homicide defined and penalized under Article 294 of the Revised Penal Code and he is hereby sentenced the supreme and capital penalty of DEATH, with costs.

He is further sentenced to pay the heirs of the deceased:

a) the sum of P50,000.00 as death indemnity;
b) the sum of P2,000.00 representing the stolen cash;
c) the sum of P200,000.00 as moral and exemplary damages; and
d) the sum of P100,000.00 representing burial and other incidental expenses of the victim.

SO ORDERED.[10]

The case was then elevated to us on automatic review. However, in a Decision[11] dated June 8, 2004, we had set aside the Judgment of the RTC and remanded the case to the same court for further proceedings. The fallo of our Decision reads:

WHEREFORE, the *Decision* of the Regional Trial Court of San Pablo City, Branch 32, in Criminal Case No. 12621-SP (00), is hereby VACATED and SET ASIDE, and the case REMANDED to said court for its proper disposition, including the conduct of further appropriate proceedings and the reception of evidence. For this purpose, the proper law enforcement officers are directed to TRANSFER appellant RAUL BERIBER y FUENTES from the New Bilibid Prison where he is presently committed to the BJMP Jail in San Pablo City, with adequate security escort, where he shall be DETAINED for the duration of the proceedings in the trial court.

The Regional Trial Court of San Pablo City, Branch 32 is directed to dispose of the case with dispatch.

SO ORDERED.[12]

In compliance, the RTC scheduled the case for hearing. On July 27, 2004, appellant's same counsel submitted a Manifestation that the defense is again waiving its right not to adduce evidence and with appellant's conformity. On August 10, 2004, appellant's counsel reiterated her manifestation. The RTC then ordered to place appellant on the stand, wherein appellant stood firm not to present any evidence for his defense.[13]

The RTC then forwarded to us the transcripts and the records of the proceedings held on August 10, 2004. In a Resolution[14] dated January 18, 2005, we ordered the RTC to render its decision on the case based on the evidence that had been presented.

On July 7, 2005, the RTC rendered a Judgment convicting appellant of the crime of Robbery with Homicide based on circumstantial evidence, the dispositive portion